IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

OP.No. 21958 of 1999(L)

PETITIONER:

E.T.JACOB,
AGED 50, ERATHU HOUSE, MALLUSSERY,
MARIATHURUTHU P.O.,
KOTTAYAM (FORMER DRIVER PC 48,
KAP – 1ST BN, THRISSUR)

BY ADV. SMT.KOCHUMOL KODUVATH
SRI.RAINGE KODUVATH
SRI.JACOB ABRAHAM
SMT.K.HONEY
SMT.K.BHAGYAM
SRI.KARJET KODUVATH

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY TO GOVT. OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR GENERAL OF POLICE, GOVT. OF KERALA, THIRUVANANTHAPURAM.**

3. **THE COMMANDANT, KERALA ARMED POLICE 1ST BN, RAMAVARMAPURAM, THRISSUR – 3.**

BY GOVERNMENT PLEADER SMT. SMITHA SUKUMARAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.36067/1999 IN O.P.NO.21958/1999 L

DISMISSED

25/06/2007 **SD/-THOTTATHIL B.RADHAKRISHNAN,**
J U D G E.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE ORDER OF THE GOVERNMENT DTD. 13/11/1991.**

EXT.P2: **COPY OF THE ORDER NO.N2-12998/92/KAP-1 DTD. 1/02/1992.**

EXT.P3: **COPY OF THE CHARGE MEMO SUBMITTED BY THE INQUIRY OFFICER TO THE PETITIONER DTD. 28/11/1992.**

EXT.P4: **COPY OF THE SHOW CAUSE NOTICE NO.H2/PR/12998/92/KAP-I DTD. 19/04/1993 FROM THE THIRD RESPONDENT.**

EXT.P5: **COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE COMMANDANT KAP-1ST BN. DTD. 29/04/1993.**

EXT.P6: **COPY OF THE ORDER NO.H2-P.R. 12998/92/K.A.P. DTD. 16/05/1993.**

EXT.P7: **COPY OF THE REPRESENTATION ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT DTD. 27/08/1994.**

EXT.P8: **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE GOVT. OF KERALA DTD. 8/07/1995.**

EXT.P9: **COPY OF THE JUDGMENT IN O.P.NO.19067/96 DTD. 5/12/1996.**

EXT.P10: **COPY OF THE ORDER ISSUED BY GOVT. OF KERALA TO THE FIRST RESPONDENT DTD. 20/12/1997.**

/TRUE COPY/

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.21958 of 1999-L

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Dated this the 25th day of June, 2007.

JUDGMENT

Petitioner faced proceedings on counts of unauthorised absence. It appears to be his case that he had been ill and had been under treatment. A de novo enquiry was also held where the petitioner took the stand that he does not have any material to be tendered in evidence. This resulted in the proceedings concluding against him.

2. Faced with the aforesaid situation, the learned counsel for the petitioner ultimately confined to a submission that the petitioner has not completed the minimum pensionable service and that the Government may treat it as an extra-ordinary case to grant him ex-gratia pension on the basis of the relevant Government Orders. This is a matter to be decided by the Government only and not for this Court to interfere and issue directions.

In the aforesaid circumstances, while affirming the impugned action, this writ petition is disposed of directing that if the petitioner makes a representation for grant of ex-gratia pension in accordance with the existing Government Orders and if the same is permissible in terms of law, the Government will consider his case sympathetically. Let that be done within four months from the date of receipt of a copy of this judgment and a representation as aforesaid, whichever is later.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No. 21958 of 1999-L

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JUDGMENT

Dated: 25th June, 2007.